

June 30, 2004

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IN THE SUPREME COURT OF THE STATE OF IDAHO

2004 Opinion No. 75

FIELDTURF, INC., a Canadian corporation,)	
)	
Plaintiff-Appellant,)	Docket No. 28584
)	
v.)	SUBSTITUTE OPINION THE
)	COURT'S PRIOR OPINION DATED
STATE OF IDAHO, DEPARTMENT OF)	JUNE 18, 2004 IS HEREBY
ADMINISTRATION, DIVISION)	WITHDRAWN.
OF PUBLIC WORKS,)	
)	
Defendant-Respondent.)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Ronald J. Wilper, District Judge.

The judgment of the District Court is affirmed.

Trout, Weeks & Nemec, P.L.L.C., Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent.

In February 2002, the Respondent, State of Idaho, Department of Administration, Division of Public Works, ("DPW") advertised for bids to complete a turf replacement at Boise State University's Bronco Stadium. The Appellant, Fieldturf, Inc., ("Fieldturf") and its competitor, Southwest Recreational Industries, Inc., ("SRI") were the only bidders to the turf replacement project. The DPW sought bids for the base project and for alternatives or additional work that could be done at the option of DPW. Fieldturf did not bid on some of the alternative work because it claimed the alternate work was unnecessary for its turf product or because the alternative work required a patented product of SRI that, legally, Fieldturf could not use. As such, the DPW determined Fieldturf's bid failed to conform to the bidding instructions, and awarded the turf replacement contract to SRI.

Fieldturf commenced a lawsuit where the district court held that Fieldturf was not entitled to be the contractor to replace the turf because Fieldturf's bid did not conform to the bidding instructions. Fieldturf now appeals to this Court.

We hold that DPW's invitation for bids and bidding instructions were flawed. Nevertheless, Fieldturf waived its right to contest the bidding process by failing to follow both the procedures for contesting errors, inconsistencies, and ambiguities within the bidding documents, and by failing to follow the statutory appeal process to challenge the bid documents or DPW's determination. Therefore, the Judgment of the district court is affirmed on alternative grounds.